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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN THOMAS BILLINGSLEA,

Defendant and Appellant.

A121101

(Solano County
Super. Ct. No. FC49384)

BY THE COURT*:

Appellant Brian Thomas Billingslea appeals from an extension of his commitment to Napa State Hospital, ordered pursuant to Penal Code section 1026.5, subdivision (b). The sole issue raised on appeal is whether appellant's waiver of a right to a jury trial as to that petition to extend his commitment was voluntarily and knowingly made, and otherwise consistent with state and federal constitutional requirements. Because appellant's opening brief acknowledged that the challenged commitment was set to expire on March 31, 2009, this court issued an order on March 19, 2009, requesting supplemental briefs, as follows:

"The commitment appellant contests is set to expire on March 31, 2009. Under Penal Code section 1026.5, subdivision (b)(2), respondent was required to file a new petition to extend this commitment no later than 90 days prior to the commitment expiration, a date that has now passed. If respondent did so, appellant would be

*Reardon, J., Ruvolo, P. J., and Rivera, J. participated.

permitted to request a jury trial. (Pen. Code, § 1026.5.) Alternatively, if respondent did not seek to extend the commitment, appellant will soon be released from custody. We therefore request that counsel file supplemental briefs addressing to whether this appeal should be dismissed on the court's own motion as moot.”

We have received a letter from appellant’s counsel confirming that a petition to extend appellant’s commitment was filed by respondent, and that trial was scheduled to commence on this new petition on April 1, 2009. Counsel also advised this court that appellant has waived his right to a jury trial and stipulated to a further extension of his commitment.

In light of this information, and on this court’s own motion, we conclude that the appeal in case no. A121101 is moot, and it is hereby dismissed. (*People v. Cheek* (2001) 25 Cal.4th 894.)